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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

THE PEOPLE,

Plaintiff and Respondent,

v.

GLORIA JEAN HENDERSON,

Defendant and Appellant.

B210228

(Los Angeles County
Super. Ct. No. NA077977)

APPEAL from a judgment of the Superior Court of Los Angeles County, Arthur Jean, Jr., Judge. Affirmed.

Ann Krausz, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Defendant, Gloria Jean Henderson, appeals from her conviction, after a jury trial, of one count of theft from an elder. (Pen.Code, §¹ 368, subd. (d).) The trial court found a section 667.5, subdivision (b) prior prison term allegation to be true. The trial court further found defendant was convicted of three felonies within the meaning of section 1203, subdivision (e)(4). Citing defendant's extensive criminal history as a factor in aggravation, the trial court sentenced defendant to the upper term of four years for the elder theft conviction. The trial court imposed an additional one year for the section 667.5, subdivision (b) prior prison term enhancement. The trial court struck the remaining prior conviction findings. In addition, the trial court ordered defendant to: provide deoxyribonucleic acid and blood samples (§ 296); pay a \$200 restitution fine (§ 1202.4, subd. (b)) and a \$200 parole revocation restitution fine (§ 1202.45); pay a \$20 court security fee (§1465.8 subd.(a)(i)); and pay \$1,000 to the victim (§ 1202.4, subd. (f).) The trial court awarded a total presentence custody credit of 192 days.

On March 1, 2008, Virginia Schneider, who was 83, was in a department store and was approached by defendant who asked about an address. Another woman approached Ms. Schneider and defendant. After a discussion about the address, defendant opened her purse which contained a large amount of money. Ms. Schneider testified: "[T]he other woman saw . . . all this money in her purse. So she closed it up real fast and said you shouldn't be here with all this money." Ms. Schneider described what the other woman then said: "[The other woman] said she should be very careful and wanted to know where it came from. And the defendant said it was money from the sale of her folk's house in another country. [¶] . . . The other woman said she should be appreciative, the defendant, because she came across an honest woman, myself, to help her. And that she said she would help her too." Ms. Schneider accompanied defendant and the other woman to a nearby cafeteria. Ms. Schneider's purpose in accompanying the two women was to help defendant.

¹

All further statutory references are to the Penal Code.

Eventually, the three women walked out of the store to a car where they got inside and discussed defendant's money. Defendant, who appeared to be from a foreign country, did not want to put the money in a bank because she did not trust them. Ms. Schneider drove the two women to a nearby bank. The other woman went into her bank and took some money from her safe deposit box. The other woman returned to her bank with her money. The purported purpose of the exercise was to show defendant money could be withdrawn from a bank. Eventually, Ms. Schneider went to her bank and withdrew \$1,000. Ms. Schneider testified: "The teller, because I have been there going [sic] for so many years, and you [sic] I told him this may sound crazy, but I said I am taking the money out but I have to just take it to the car. And I said I will be bringing it back in about ten minutes."

Upon returning to the car, the envelope containing the money was given to the other women. Ms. Schneider's money was then wrapped in cloth and a prayer was said while they were seated in her car. She then returned to her bank with what Ms. Schneider thought was the cloth containing her money. Upon returning to the bank, Ms. Schneider discovered the money was missing.

Defendant's fingerprints were found in Ms. Schneider's car. Surveillance videos were played for the jury. When questioned, defendant admitted she was aware of the "African switch" sting and had committed one in Long Beach. Defendant acknowledged the incident occurred where Ms. Schneider had been defrauded. Defendant's description of the other woman used in the sting was the same as that provided by Ms. Schneider.

We appointed counsel to represent defendant on appeal. Appointed counsel has filed a brief in which no issues are raised. (*People v. Wende* (1979) 25 Cal.3d 436, 441-442; see *Smith v. Robbins* (2000) 528 U.S. 259, 264.) On February 11, 2009, we advised defendant she had 30 days within which to submit by brief or letter any grounds of appeal, contentions, or argument she wished us to consider. Defendant has not filed any response. After examining the entire record, we conclude that appointed appellate counsel has fully complied with her responsibilities. No argument exists favorable to

defendant. (*Smith v. Robbins, supra*, 528 U.S. at pp. 277-284; *People v. Wende, supra*, 25 Cal.3d at p. 441.)

The judgment is affirmed.

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TURNER, P. J.

We concur:

ARMSTRONG, J.

MOSK, J.